

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
BRIEF &  
APPENDIX**





# 77-1257

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
UNITED STATES OF AMERICA,

Appellee,

Docket No. *B*  
77-1257 *PJS*

-v-

RALPH EBOLI,

Appellant  
-----X

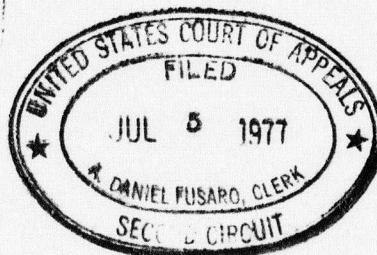
BRIEF FOR APPELLANT RALPH EBOLI  
AND APPENDIX

Appeal from a Judgment  
of Conviction In The  
United States District  
Court for The Eastern  
District of New York

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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----x  
UNITED STATES OF AMERICA,

Appellee,

Docket No.  
77-1257

-v-

RALPH EBOLI,

Appellant  
-----x

BRIEF FOR APPELLANT RALPH EBOLI

Ralph Eboli appeals from his conviction of March 14, 1977 in the United States District Court for the Eastern District of New York (Dooling, J.) for violation of a condition of probation, 18 U.S.C. 3653, to wit, failure to report to his probation officer. His sentence was one month confinement and eleven months further probation. After serving two weeks at the MCC, the district court granted bail pending appeal.

ISSUES PRESENTED FOR REVIEW

1. Whether Eboli's due process right was violated by the Government's failure, without justification, to execute his arrest warrant for six months. The warrant issued in August 1976. It was not executed until February 1977. The violation was

compounded by the Government's prior delay of several months in bringing the charge in the first place.

2. Whether the district court erred in imposing sentence without a further probation report and giving defendant an opportunity to address the court. The error is clear if Criminal Rule 32 applies in a probation revocation proceeding.

#### STATEMENT OF FACTS

Eboli was charged initially in July 1973, by information, with attempting to prevent the Drug Enforcement Agency's seizure of \$5,000 (A 4).<sup>\*</sup> 18 U.S.C. 2232. He pleaded guilty the same day. Judge Dooling suspended a one year sentence, and imposed three years probation and a \$1,000 fine (A 1).

The whole prosecution was questionable.<sup>\*\*</sup> In 1971 an undercover agent was pressuring Eboli to make a drug deal as a set-up for an arrest. Eboli finally agreed and took \$5,000, but delivered no drugs. At no time did he even possess drugs. He had, furthermore, no inkling that the purchaser was a narcotics agent.

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\* "A" denotes the appendix to this Brief. Numbered references, without more, are to the revocation hearing of March 11, 1977.

\*\* See minutes of Guilty Plea, July 9, 1973, and of sentencing, August 24, 1973.



Eboli's federal sentence for going off with the \$5,000 (A 4) was imposed on August 24, 1973. He was in State confinement on an assault charge from June 1974 to January 1976 (9). Starting April 1975 he began making monthly payments on his \$1,000 fine (11).

Upon his release from State custody, Eboli contacted Martin Morris, his probation officer in Westbury (13). He could not make his first reporting date because of a snowstorm but he did call to say what happened and set up a February date (13). He missed that, but called Morris in March to tell him that he was spending large amounts of time in Pennsylvania at car auctions buying and selling cars (14). Morris set up no definite date to see him again but assumed Eboli would be in touch (14). Eboli wasn't. The three year probation expired a few months later on August 23, 1976. At that time Eboli still owed \$400 on the fine.

On or about August 13, 1976 the probation officer charged Eboli with having failed to complete payment of his fine and to report during 1976. A warrant for his arrest issued August 27. The warrant was not executed until February 1977, notwithstanding that the probation officer knew Eboli's address, and Morris had made visits to his home and the place of business of his son, where Eboli sometimes worked (40).

Moreover during this period (November and December 1976) the Government subpoenaed Eboli to testify as a grand jury witness and he appeared twice at the Strike Force offices for interviews (22). He was, in addition, reporting to State parole authorities (A 7).

The district court held a revocation hearing in March 1977. Morris was the Government's only witness, and told of monthly letters and other advice to Eboli through his family that he would have to report, and Eboli's failure to do so. Eboli testified also, as did his wife. He was, he said, mostly in Pennsylvania during the period at the car auctions. He had the impression from Morris that it was not urgent that he report as long as he kept making payments on the fine, stayed out of trouble, and called if he couldn't report (16). All this he did, calling several times when Morris was not there and leaving messages for him (17). Eboli conceded that he was apparently ignoring Morris but denied doing it intentionally (23) in view especially of Morris' not making clear that he wanted him definitely to appear (21).

The district court dismissed the charge based on failure to pay the fine (A 5). Such payment had not been made a special condition of probation and there was no refusal to pay when Eboli had the ability (A 6). The court, however, did find a violation of probation condition 7 requiring that Eboli "report to the probation officer as directed" (10),



refusing to credit Eboli's testimony that Morris had given him to understand he did not have to report (A 7). Without the benefit of an updated probation report (or a statement of why one was not needed), or affording Eboli an opportunity to address the court on the punishment, it terminated its prior suspension of sentence and imposed a new one year sentence of which one month was to be served (A 10).

#### ARGUMENT

##### POINT I

THE GOVERNMENT UNREASONABLY DELAYED  
IN FILING CHARGES AGAINST EBOLI AND  
EXECUTING THE ARREST WARRANT. THAT  
WARRANT, ACCORDINGLY, WAS VOID.

Once "accused", defendant has a Sixth Amendment speedy trial right, Barker v. Wingo, 407 U.S. 514 (1972) and for certain types of pre-indictment delay a due process claim as well. United States v. Marion, 404 U.S. 307 (1972); United States v. Mejias, 2d Cir. March 10, 1977. The same safeguards attend the Government's charge of a probation violation. This includes restrictions on the timing of the arrest warrant; Stevens, J., dissenting, Moody v. Daggett, 97 S. Ct. 274, 283 n. 11 (1976) ("the parolee's right to a prompt revocation hearing should [not] depend upon the filing of the warrant [in cases where] the Board has full notice of [the alleged ground for revocation]"); on its execution; United States v. Strada,

503 F.2d 1081, 1084 (8th Cir. 1974) ("delay between the issuance of an arrest warrant and its execution may be unreasonable and a deprivation of due process"); United States v. Gernie 228 F.Supp. 329, 338-39 (S.D.N.Y. 1964) ("Congress could not have intended a warrant to lie fallow indefinitely and to be executed at any time in the future when it suited the probation authorities to do so"); Simon v. Mosely, 452 F.2d 306, 309 (10th Cir. 1971) ("warrant must be executed within a reasonable time"); and on the time within which the hearing must follow arrest. 18 U.S.C. 3653 ("as speedily as possible"); United States v. Reaugh, 398 F.Supp. 905 (M.D. Pa. 1975). See generally Gagnon v. Scarpelli, 411 U.S. 778 (1973) (due process requirement of hearing); Mempha v. Rhay, 389 U.S. 127 (1969) (counsel required at revocation hearing).

The inquiry here is whether the extended delay between Eboli's violation and eventual prosecution disregarded due process. We submit that it did.

First, Eboli's problems started in February 1976. By March it was clear to the probation officer that Eboli was not following his directions. He nonetheless permitted the condition to continue until August -- an additional five months -- without so much as intimating that a charge was in the offing.

The omission had significance. There was no reason for Eboli deliberately to avoid his probation officer.



He was doing nothing wrong (A 9) and had a recognized right to be in Pennsylvania buying and selling cars (before serving his State sentence he had transferred his federal probation to Pennsylvania and reported regularly there (A 12)). Even the district court, in imposing sentence, rested the penalty on the importance to the system of reporting and Eboli's failure to accord it such (A 9). There was no other misconduct of Eboli. All the probation officer had to do was file its petition and give Eboli notice, and undoubtedly his oversights would have been promptly corrected.

Second, when the warrant did finally issue at the end of August, after the probation period was over, it was coupled with a six month delay in execution. That delay was inexcusable since the Government knew where to find Eboli, the Strike Force had him in its offices twice in November and December, 1976, and he was reporting to state parole authorities. The delay was unfair to Eboli. For six months he thought his probation was over. Only with his arrest in February 1977 did he learn there were new charges which could deprive him of his liberty.

Third, it is true that the cases which have overturned a probation violation for failure to execute a warrant have involved delays longer than the post warrant delay here.

Simon v. Mosely, supra (two and one-half years); United States v. Gernie, supra (eleven years). But considering just the execution delay alone (six months) we are beyond the period for trial in the prompt disposition plans of the Southern and Eastern Districts, and before that, this Circuit's Speedy Trial Rules, considering especially that there was no excuse for the delay. Strunk v. United States, 412 U.S. 434, 436 (1973) Barker v. Wingo, supra; United States v. Roberts, 515 F.2d 642 (2d Cir. 1975). And the case is that much stronger if, as we submit, the pre-warrant period is joined so that the total delay is almost one year.

Finally, there is reason to hold the Government to a stricter standard in the probation violation area, rather than the balancing test which Barker v. Wingo, supra mandates in the Speedy Trial context. Simon v. Mosely, supra ("reasonable diligence and dispatch" is the standard); United States v. Gernie, supra at 338:

"Among the factors to be taken into account in determining whether more than a reasonable time has elapsed between the issuance of a warrant and its execution are conduct of the petitioner which might prevent or impede execution of the warrant and diligence or lack of diligence of the probation authorities in attempting to serve it.

"If the law were otherwise the results would be offensive to every concept of justice and fair play. A warrant issued ex parte could be held as a sword suspended over the head of a violator indefinitely and could be executed many years later



at the mere whim or caprice of the probation authorities. This could occur even were the probationer's address and whereabouts fully known to the probation authorities, or indeed a matter of record in the probation office. The probationer accused of violation would have no knowledge of the issuance of the warrant. Upon his arrest after a lapse of many years proof of innocence of the charge of violation might well be unavailable to him. No matter how minor the charge on which the alleged violator was originally imprisoned or no matter how minor the alleged violation, the warrant could be kept alive virtually for the life of the probationer by the mere inaction of those charged with the duty of enforcing the law.

"While it is no doubt true as Judge Biggs said in the Smith case that Congress did not intend by the statute to compel a United States court to enter into a race with a convicted defendant to execute a warrant against a time limit, it seems equally clear that Congress could not have intended a warrant to lie fallow indefinitely and to be executed at any time in the future when it suited the probation authorities to do so. It could not have intended what might be in effect a lifetime probation. Some bounds must be set on the time within which the warrant must be executed, and such bounds are exceeded where under all the facts and circumstances execution was unreasonably delayed.

"A reasonable time limitation is particularly appropriate where probation is concerned. Probation, unlike parole, is an arm of the court itself. Probation officers are appointed within the jurisdiction and under the discretion of the court. They operate under the court's supervision and direction. It is the court which has the ultimate responsibility for supervision of the probationer through its probation officers. . . . The court must be vigilant to insure that just and fair bounds are set for the exercise of its authority over probationers. It should not countenance unreasonable extension of its supervisory powers in the face of inaction or lack of diligence of its own officers."

For all of those reasons, the court below should have dismissed the Probation Revocation petition. The issue was not specifically called to its attention but it was apparent on the face of the record and is treated as jurisdictional.

United States v. Gernie, supra, at 339; United States v. Strada, supra. In any event failure to have raised it below would mean at most that the issue was not adequately explored in the testimony. At a minimum, a remand for those purposes is appropriate.

## POINT II

### THE DISTRICT COURT ERRED IN FAILING TO FOLLOW RULE 32

Were this an ordinary sentence, there would clearly have to be a reversal for re-sentencing. In disregard of F.R. Crim.P. 32 (c), the district court received no updated probation report (from 1973) before sentencing Eboli nor stated its reasons for dispensing with it. In disregard of Rule 32 (a)(1) it gave Eboli no opportunity to make a statement in his own behalf.

We are aware that the Seventh Circuit has refused to apply Rule 32 (a)(1) in revocation proceedings as a matter of right but only "better practice". United States v. Core, 532 F.2d 40 (7th Cir. 1976). That decision should not be followed.

Former Rule 37 (time to appeal) applies to revocation proceedings. So also apparently does Rule 32(a)(2) requiring notification to defendant of his right to appeal. The court below confirmed that. On May 13, 1977 it extended Eboli's time to file an appeal notice on the ground that it had failed to notify him of his appeal right as required by Rule 32(a)(2)(A 2).



If Rule 32(a)(2) applies, certainly Rule 32(a)(1) and 32(c) ought to apply also.

In some cases where the defendant's conduct and sentence were more serious, the rules' disregard could mean more than this. On the other hand the original sentence and report were four years old. Other factors might have been presented in mitigation. The proper course is not to speculate but to vacate and remand so that the proper procedure may be followed.

#### CONCLUSION

The Judgment below should be reversed with directions to dismiss the revocation petition. Barring that there should be remand for re-sentencing under the provisions of Rule 32.

Respectfully submitted,

Howard L. Jacobs, P.C.  
Attorney for Appellant  
Ralph Eboli

Howard L. Jacobs, Esq.  
Donald E. Nawi, Esq.

Of Counsel

APPENDIX







73 CR 649

| DATE     | PROCEEDINGS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/19/74 | Stenographic Transcript filed dated 8/24/75.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 12/2/74  | " " " " 7/9/73                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 1/27/76  | By DOOLING, J. - Bench warrant ordered and issued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 3/9/77   | Bench warrant returned and filed executed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11/77    | Before DOOLING, J. - Case called. Deft present. Hearing on violation of pro<br>ordered and begun. Hearing concluded. Court finds that defendant has<br>violated probation - condition # 7. The suspension of execution of senten<br>is terminated and the deft is confined to imprisonment for one year pursuant<br>to T-18:3651, to serve 1 month in a jail type or a similar place of detenti<br>the balance of 11 months is suspended and deft is placed on probation for a<br>period of 11 months subject to the standard conditions of probation as set<br>in the standing order of this Court dated 10/13/64. Execution of senten<br>stayed until 3/25/77 at 2:00 p.m. |
| 3/14/77  | By DOOLING, J. - order for violation of probation filed. Certified copies to<br>Probation and Marshals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 3/29/77  | Certified Copy of Violation of Probation returned and filed from Marshal.<br>Deft. delivered to M.C.C., New York,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 4/7/77   | By DOOLING, J. - Writ issued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 4-7-77   | Before DOOLING J - case called - deft & counsel Howard Jacobs present -<br>defts motion for bail pending appeal argued - motion granted. Deft is<br>to be released pursuant to Sec. 3158 of T-18. upon his execution of a<br>P.A.B. of \$10,000 without security and on the further condition that deft<br>telephone Mr. Greenidge of the Strike Force office every Friday (except<br>for 4-8-77) by 4 PM. Bail limits extended to include N.Y. County and<br>Bronx Countys, N.Y., State of N.J. and the E.D. and M.D. of Pa.                                                                                                                                                |
| 12-77    | Writ of Habeas Corpus Ad Testificandum returned and filed from<br>Marshal. Executed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1-13-77  | Before Dooling J - case called - deft by counsel Donald Naivi<br>moves for an extension of time to appeal and docket record on appeal.<br>The court having failed to advise the deft of his rights under Sec. 32(a)(<br>court finds that time to appeal for that reason has not expired. Clerk<br>directed to file a Notice of appeal forthwith.                                                                                                                                                                                                                                                                                                                             |
| 13-77    | Notice of appeal filed - docket entries and duplicate of notice of appeal<br>mailed to the court of appeals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 5-13-77  | Notice of appeal in letter form for the deft filed and placed in criminal<br>file.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

B



UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

U. S. vs

EBOLI, Ralph

73 649 1  
Yr. Docket No. Def.

| DATE    | PROCEEDINGS (continued)                                                                         | V. EXCLUDABLE DELAY |     |     |     |
|---------|-------------------------------------------------------------------------------------------------|---------------------|-----|-----|-----|
|         |                                                                                                 | (a)                 | (b) | (c) | (d) |
| 5.27.77 | Order filed received from the Court of Appeals that the record be docketed on or before 6.3.77. |                     |     |     | GP  |
| 6.2.77  | Stenographer's Transcript dated March 11th, 1977 filed.                                         |                     |     |     | GP  |
| 6.2.77  | Record on Appeals certified and hand delivered to the Court of Appeals by Donald Nawi.          |                     |     |     | GP  |

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA

-v-

RALPH EBOLI

Defendant  
-----x

THE UNITED STATES CHARGES:

COUNT ONE

On or about the 11th day of February 1971, the defendant Ralph Eboli, within the Eastern District of New York, before the seizure of goods, wares and merchandise, that is, five thousand dollars (\$5,000) in United States currency, by Special Agents of the United States Department of Justice Bureau of Narcotics and Dangerous Drugs, persons authorized to make searches and seizures, did unlawfully, wilfully and in order to prevent the seizure and securing of said five thousand dollars (\$5,000) in United States currency, ~~and~~ remove the aforesaid five thousand dollars (\$5,000).

(Title 18, United States Code, Section 2232)

Robert A. Morse / ARW  
ROBERT A. MORSE  
United States Attorney

FILED  
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U. S. DISTRICT COURT E.D. N.Y.  
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TIME A.M. \_\_\_\_\_  
P.M. \_\_\_\_\_

73CR 649



1 Code Section 3653, the statute reads, and I believe it  
2 is in the third paragraph --

3 THE COURT: Let me get it.

4 MR. GREENIDGE: I believe it is in the third  
5 paragraph, your Honor. It's in the middle of that  
6 paragraph:

7 "If an offense occurs during the probationary--"

8 THE COURT: Is that in the third paragraph?

9 MR. GREENIDGE: Excuse me, 3653.

10 THE COURT: I see, up to the maximum probation  
11 period, a warrant can issue --

12 MR. GREENIDGE: Yes.

13 Mr. Morris has just indicated to me that the  
14 report was prepared, I believe, on August 12th of 1976,  
15 so I guess the violation was written out.

16 THE COURT: The warrant, as I see it, was  
17 issued on August 25th of that year. The charge of  
18 violation of probation -- are two in number -- "You  
19 shall follow the probation officer's instructions and  
20 advice," and Condition 7, "You shall report to the  
21 probation officer as directed."

22 The evidence with respect to Condition 6 has to  
23 do with the payment of the fine of a thousand dollars.  
24 Payment of that fine was not made a special condition  
25 of probation, so unless it came within some other

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provision the failure to continue the payments of the fine would not constitute a violation of probation.

In general, the requirement that a fine be paid by installments, restitution or otherwise, is in this district usually made by the judge a special condition, so it can be treated as a failure to comply and can be treated as a violation of probation. It is all somewhat touchy, because if the defendant is in fact economically unable to pay the fine, there can never be a violation of probation. It is only when the failure to pay the fine stems from a refusal to pay it, when one has the ability to pay it. In those circumstances, it is not -- the evidence does not support the finding that there was a violation of Condition 6 in the failure to keep current the problem of installment payments of the fine.

Insofar as Condition 7, there is a conflict in the testimony, but it seems to me that the evidence is clear that there was a failure to report to the probation officer as directed. Defendant says that the probation officer in effect gave him to understand, as long as he kept in touch and did not do anything wrong and kept his fine payments up-to-date, there would be no problem, and that he should stop in when he was able to do so.



3/sr

1 This testimony I am unable to accept. It seems  
2 to me intrinsically incredible and incompatible with  
3 normal probation operation and with the issuance of a  
4 violation report in this case. The defendant did fail  
5 to report when he was directed to report and the excuse  
6 now put forward hardly seems an adequate excuse. It  
7 was not a matter of reporting daily or weekly. This  
8 was a monthly report and as Mr. Morris indicated, he  
9 was prepared to work out some kind of arrangement for  
10 making it harmonize with the defendant's responsibility  
11 to report to his state parole officer. None of this  
12 was done though, because of the defendant's failure to  
13 offer any cooperation to the probation officer. It is,  
14 therefore, found that the defendant did violate  
15 Probation Condition Number 7.

16 The question then is, since there has been a  
17 violation, what the consequences of that violation  
18 should be.

19 MR. GREENIDGE: I would like to be heard on  
20 that point. I believe on that particular point, in  
21 researching this particular issue, United States v.  
22 Williams, a Southern District case, 1976, 365 F. Supp.  
23 1185. There was a similar situation where the pro-  
24 bationer failed to report the fact that he had a job  
25 and failed to pay off a judgment against him brought

1 by his estranged wife and failed to report to his  
2 probation officer. I believe in that case the court  
3 decided that his failure to report to the probation  
4 officer went into the heart of the probationary-type  
5 sentence, where the court felt that the defendant did  
6 not need the full supervision of a prison, but some  
7 supervision. I would say that it merits the strong  
8 consideration by the court maybe for an added period  
9 of time put on the probation or a prison term until  
10 the court is satisfied that he is capable of controlling  
11 his actions.

12 THE COURT: Is it in the court's power to  
13 extend the probation term?

14 MR. GREENIDGE: As I understand it, you can  
15 extend the probation term for an offense that occurs  
16 within the probationary period, even though the pro-  
17 bationary period has terminated.

18 THE COURT: Is there anything that you wish to  
19 say?

20 MR. SLITTER: I had in mind a state case -- I  
21 think it has been explained by the Court what the  
22 province might be. I have nothing to add to the  
23 situation, except to say this:

24 As far as a fine is concerned, I would be very  
25 satisfied to take care of the fine this morning.



1 THE COURT: I am not concerned with the fine.  
2 That is a debt owed to the United States. As you know,  
3 the government has some pretty egregious methods  
4 of collecting its debts and the funds to do so, so it  
5 would be advisable that the fine be paid before the  
6 usually patient government becomes an angry creditor.  
7 That is a separate matter. So far as this offense is  
8 concerned, the violation of probation, the normal  
9 thing to do would be to terminate the suspension of  
10 execution and execute the sentence, which was previously  
11 imposed. Apparently, the defendant has on the credit  
12 side of his ledger the fact that since his release  
13 from the state term he has been in compliance with law,  
14 except in this respect. So far as we know, he has  
15 not violated his terms of parole, except to the extent  
16 perhaps a temporary residence in Pennsylvania, and it  
17 appears that he has testified as a witness in response  
18 to a subpoena, apparently without incident. These  
19 are considerations which are on the plaintiff's side.  
20 Nevertheless, the whole probation system simply cannot  
21 work, unless probation is complied with and is treated  
22 as a serious matter, and as it is meant to be treated  
23 both as an opportunity and an advantage to a defendant.

24 Now, there are few men so busy that they cannot  
25 find time for a monthly visit to their probation

1 officer. I do not know what arrangements are made for  
2 out-of-season times for reporting. I do not know  
3 whether the probation office is authorized to have  
4 probation in the evening or whatever the circumstances.  
5 Those are things which should be talked out and not as  
6 in this case treated as matters of no importance.  
7 Having, therefore, found that the defendant has  
8 violated the conditions of probation Number 7, in the  
9 probation conditions, the suspension of the execution  
10 of sentence is terminated and the defendant will be  
11 committed to the custody of the Attorney General, to  
12 be confined for a period of one year, pursuant to  
13 Section 3651 of Title 18 of the United States Code, to  
14 serve one month of that term in a jail or similar  
15 place of detention. The balance of the sentence of  
16 eleven months is suspended and the defendant is  
17 placed on probation for that eleven-month period on  
18 the standing probation conditions of the standing  
19 order of the Court.

20 MR. GREENIDGE: We have no objection to  
21 surrendering --

22 MR. SLITTER: Could we have a two-week stay,  
23 if the Court pleases?

24 MR. GREENIDGE: We have no objection.

25 THE COURT: Execution of this sentence is



Certificate of Service

United States v. Eboli

Docket No. 77-1257

I certify that on July 5, 1977 I mailed two copies of the Brief and Appendix for Appellant Ralph Eboli to David Trager, United States Attorney, 225 Cadman Plaza East, Brooklyn, N. Y. 11201.

Donald E. Nawi

Donald E. Nawi